

Decision 05-04-037 April 21, 2005

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E) For Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2003, And to Reflect That Increase in Rates.

Application 02-05-004  
(Filed May 3, 2002)

Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Edison Company.

Investigation 02-06-002  
(Filed June 6, 2002)

**DECISION DENYING, IN PART,  
SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)  
PETITION FOR MODIFICATION OF DECISION 04-07-022**

Southern California Edison Company (SCE) has filed a Petition for Modification of Decision 04-07-022, its most recent rate case decision. SCE asserts:

1. In the last paragraph of Section 6.7.2.1, Total Compensation Study, the Commission comes to two contradictory conclusions as to whether SCE must report annually on the total compensation packages for each of its top ten executives. SCE believes the Commission intended not to require SCE to report annually on total compensation packages for each of SCE's top ten executives, and that the decision should be modified to reflect this intent.

2. Conclusion of Law 42, stating SCE's operating expenses should be increased by \$2.343 million, contradicts the text in the last paragraph of Section 8.5, Customer Deposits, in which the Commission states it will adopt increased expenses of \$1.6 million. The \$1.6 million amount is consistent with the Results of Operations (RO) model. Thus, SCE believes the correct number is \$1.6 million.

3. Conclusion of Law 19 requires adjustments to transmission and distribution expenses for FERC Accounts 582 (forecasting methodology), and 588 (electric transportation). These adjustments, however, contradict the discussion in the text of the decision, which rejects them. SCE requests that the Commission modify its Conclusion of Law 19 to reflect the discussion in the decision.

4. In the Public Affairs (PA) portion of the decision (Section 6.8.1), the Commission disallowed 25% of SCE's PA request. However, the Commission's disallowance did not take into account that SCE had already made an approximately 14% adjustment to account for PA activities that do not benefit ratepayers. As a result, not one, but two adjustments were made for PA activities—SCE made one adjustment of about 14% in its forecast, and the Commission made a second adjustment of 25%, for a 39% total adjustment. If the Commission is inclined to disallow 25% of SCE's PA expenses, the disallowance should be subtracted from SCE's total PA forecast of \$11.017 million (which includes activities benefiting both ratepayers and shareholders), rather than SCE's already-adjusted forecast of \$9.461 million. This way, SCE's total PA forecast is adjusted by only 25%, not 39%.

The Greenlining Institute filed in opposition to the petitioner's request to eliminate the executive reporting requirement. No other party responded to the Petition for Modification.

## Discussion<sup>1</sup>

### 1. Section 6.7.2.1

SCE contends that the Commission's conclusion that SCE should report annually on the total compensation packages for each of the top ten executives is inconsistent with the Commission's other findings regarding executive compensation. SCE points out that in Section 6.7.2.1 of the decision, the Commission comes to two contradictory conclusions as to whether SCE must report annually on the total compensation packages for each of its top ten executives. First, the Commission concludes the following:

Greenlining asks that we adopt a requirement that SCE report annually on the total compensation packages for each of the top ten executives, including the value of stock options and retirement plans. **We are not persuaded of the merits of such a requirement at this time, and therefore, decline to adopt the proposal.** [Emphasis added.] (D.04-07-022 at 205.)

After coming to the above conclusion, in the next sentences the Commission reaches a contradictory conclusion:

Greenlining also asks that we adopt a requirement that SCE report annually on the total compensation packages for each of the top ten executives, including the value of stock options and retirement plans. This information would be instructive as part of the Commission's effort to better understand the nature of SCE's executive compensation practices. **We will adopt this requirement.** [Emphasis added.] (D.04-07-022 at 205.)

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<sup>1</sup> All page references to D.04-07-022 are to the decision on the Commission's web site in the acrobat version (PDF). Page references may also differ depending on the printer used.

When D.04-07-022 is read in its entirety, it is clear that we intended SCE to report annually on total compensation packages for each of its top ten executives.<sup>2</sup> Conclusion of Law 37 states:

37. SCE should be ordered to report annually on the total compensation packages for each of the top ten executives. (at 353.)

Ordering Paragraph 13 states:

13. No later than February 1<sup>st</sup> of each year, SCE shall report to the Commission on the total compensation received by each of its ten most highly compensated executives. This information shall also be made publicly available at the same time. (at 359.)

We will modify D.04-07-022 by striking the following two sentences on p. 205:

Greenlining asks that we adopt a requirement that SCE report annually on the total compensation packages for each of the top ten executives, including the value of stock options and retirement plans. We are not persuaded of the merits of such a requirement at this time, and therefore decline to adopt the proposal.

**2. Conclusion of Law 42 states:**

42. An estimate of \$80 million for customer deposits should be adopted as an offset to rate base, and SCE's operating expenses should be increased by \$2.343 million to reflect interest payable on customer deposits at a projected interest rate of 2%. (at 353.)

The text states:

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<sup>2</sup> We reached a similar result in the PG&E general rate case decision D.04-05-055 in A.02-11-017 at p. 109 and Ordering Paragraph 12. (PG&E shall file...reports...on the total compensation of all other utility officers.)

In addition, we will adopt TURN's proposal to increase SCE's operating expenses to reflect interest payable on customer deposits at a projected interest rate of 2%. However, we will not adopt TURN's proposal to increase expenses by \$3.343 million. We will instead adopt increased expenses of \$1.6 million, or 2% of \$80 million. (at 255.)

We will follow the text and modify Conclusion of Law 42 by striking "\$2.343" and replacing it with "\$1.6." This change does not affect revenue or rates as \$1.6 million was used in the final results of operations table to determine the revenue requirement.

**3. Conclusion of Law 19 states:**

19. SCE forecast for T&D O&M expenses should be adopted with adjustments of \$1.443 million per year for FERC Account 583.400 (intrusive inspections), \$1.904 million for Account 582 (forecasting methodology), and \$1.868 million for Account 588 (electric transportation). (at 350-51.)

The adjustments were all downward adjustments, a reduction in expenses.

The text says:

We find that ORA's use of a five-year average for Account 582 is contrary to the facts in evidence and does not examine the reality behind the more recent recorded data. We accept SCE's forecast of \$11.918 million for Account 582. (at 118.)

Account 588 (Miscellaneous Distribution Expenses) was challenged. The text states:

Aglet takes issue with the non-labor component of SCE's budget-based forecast of \$4.125 million. Using recorded costs of 2000 as the basis for its forecast, Aglet recommends instead a forecast of \$2.257 million. This represents a proposed disallowance of \$1.868 million. (at 123.)

\* \* \*

We will adopt SCE's budget-based forecast of \$4.125 million, as it is the most reliable forecasting method supported by the totality of this record. (at 125.)

The discussion in the text is accurate for Accounts 583.400, 582, and 588. The only adjustment made in the results of operations table was to reduce Account 583.400 by \$1.443 million. The other two proposed adjustments were not made. We will recast Conclusion of Law 19 to read:

19. SCE's forecast for T&D O&M expenses should be adopted with a downward adjustment of \$1.443 million per year for FERC Account 583.400 (intrusive inspections).

This change does not affect revenues or rates.

**4. In regard to the PA expense (Section 6.8.1) we said:**

We now understand SCE's request to be \$7.535 million for labor and \$1.926 million for non-labor, for revised total test year request of \$9.461 million. SCE claims that this request excludes costs for activities that do not benefit ratepayers. (at 228-29.)

After analyzing the PA account we decided:

In our judgment, a 25% disallowance of SCE's PA request strikes a fair balance of ratepayer and company interests and gives appropriate weight to the fact that a considerable portion of PA activities are at the local level and have significant potential ratepayer benefit. Accordingly, we will adopt labor related expenses of \$5.651 million and non-labor expenses of \$1.445 million, or a total PA expense forecast of \$7.096 million. This represents a disallowance of \$2.365 million. (at 233.)

Our Finding of Fact was:

191. A disallowance of 50% of the PA costs requested by SCE would give too little weight to the evidence of potential ratepayer benefit of PA activities, whereas a 25% disallowance of SCE's PA request

strikes a fair balance of ratepayer and company interests and gives appropriate weight to the fact that a considerable portion of PA activities are at the local level and have significant potential ratepayer benefits. (at 341-42.)

SCE does not contest the conclusion that 25% of its total PA forecast should be disallowed. SCE does believe, however, that the Commission erred regarding what amount constituted its total PA forecast. The Commission adjusted 25% from SCE's already-adjusted PA forecast of \$9.461 million instead of SCE's total PA forecast of \$11.017 million. SCE argues that in its testimony, workpapers, and opening brief, its total PA forecast—but not its request—was \$11.017 million. The \$11.017 million forecast was of total PA activities that benefit both ratepayers and shareholders. Recognizing that it could not recover from the ratepayers for activities that should be charged to shareholders, SCE adjusted the \$11.017 million total forecast by \$1.528 million. The \$1.528 million adjustment reflected what SCE viewed as lobbying and other activities that should not be charged to ratepayers. Therefore, SCE adjusted its forecast by approximately 14 % to account for shareholder activities: its request became \$9.461 million (including a further \$28,000 adjustment). SCE believes that in what appears to be an oversight or mathematical error, the Commission failed to address the fact that SCE's request of \$9.461 million already excluded the amount of \$1.528 million for shareholder activities from its forecast of \$11.017 million.

In overlooking this self-disallowance made by SCE and going on to make a 25% disallowance of its own, SCE contends that the Commission has “double-cut” SCE's request. In other words, the Commission found that SCE's total PA expense forecast, adjusted for non-ratepayer funded activities, should be \$7.096 million, in essence disallowing 39% of SCE's total PA forecast (the Commission's 25% adjustment, plus SCE's 14% adjustment), rather than the 25%

disallowance set forth in the decision. SCE asserts that the Commission should instead have made a 25% adjustment to SCE's \$11.017 million forecast, making a \$2.754 million adjustment. The total expense forecast for PA should have been \$8.263 million, not \$7.096 million.

SCE used the \$7.096 million figure setting rates. If we were to accede to SCE's argument rates would not immediately increase but the additional \$1.167 million would be charged to a balancing account to be recovered in rates. However, our reading of D.04-07-022 does not support SCE's position. Section 6.8.1 of the decision is lengthy and detailed. Our review of that section is clear that we were discussing 50% of SCE's request, not 50% of its forecast. For instance, we set out ORA's position:

ORA recommends that 50% of SCE's labor cost be disallowed, or \$3.768 million of SCE's request of \$7.535 million. ORA initially recommended that SCE's entire request for non-labor expenses in Account 921 be disallowed based on its contention that SCE had not provided adequate documentation to substantiate its forecast. On the basis of additional discovery, ORA now recommends that 50% of non-labor expenses, or \$977,000 of SCE's proposed expense of \$1.954 million for non-labor, be disallowed. (at 230.) The total labor and non-labor costs ORA used in Account 921 is \$9.489 million.

We concluded:

We are not prepared to accept SCE's proposed ratepayer funding level [i.e. \$9.461 million] for PA activities in this GRC. On the other hand, we find that the ORA/Aglet approach, which would disallow 50% [i.e. \$4.745 million] of the PA costs requested by SCE, gives too little weight to the evidence of potential ratepayer benefit of PA activities. In our judgment, a 25% disallowance of SCE's PA request [i.e. \$9.461 million] strikes a fair balance of ratepayer and company interests.... (at 232.)



We adopted a forecast of \$7.096 million or 75% of SCE's request. The discussion of Account 921 in D.04-07-022, analyzed the issue correctly. SCE proposed a \$9.461 million request to be ratepayer funded. This was challenged by ORA and others who urged a 50% disallowance. Our discussion was based on a 9.461 million request by SCE versus a 50% proposed reduction by ORA. We concluded that 50% was too high, but 25% was reasonable. Our review of that conclusion shows it was correct.

### **Comments on Draft Decision**

The draft decision of the administrative law judge (ALJ) in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. No comments were filed.

### **Assignment of Proceeding**

Susan P. Kennedy is the Assigned Commissioner and Robert Barnett is the assigned ALJ in these matters.

### **Findings of Fact**

1. In D.04-07-022, we intended that SCE report annually on the total compensation packages for each of the top ten executives. D.04-07-022 should be modified to reflect this result unambiguously.

2. In Conclusion of Law 42, the figure \$2.343 million is in error; the correct figure should be \$1.6 million. The Conclusion should be modified to correct this.

3. In regard to Conclusion of Law 19, the discussion in the text is accurate for Accounts 583.400, 582, and 588. The only adjustment made in the results of operations table was to reduce Account 583.400 by \$1.443 million. The other two proposed adjustments were not made. We will recast Conclusion of Law 19 to read:

19. SCE's forecast for T&D O&M expenses should be adopted with a downward adjustment of \$1.443 million per year for FERC Account 583.400 (intrusive inspections).

4. In regard to the Public Affairs portion of D.04-07-022 (Account 921), we find that it is correct.

### **Conclusion of Law**

We conclude that D.04-07-022 should be modified as set forth in the following order.

## **O R D E R**

**IT IS ORDERED** that:

1. Decision (D.) 04-07-022 is modified by striking the following two sentences on p. 205:

Greenlining asks that we adopt a requirement that SCE report annually on the total compensation packages for each of the top ten executives, including the value of stock options and retirement plans. We are not persuaded of the merits of such a requirement at this time, and therefore decline to adopt the proposal.

2. We affirm Ordering Paragraph 13 of D.04-07-022:

No later than February 1<sup>st</sup> of each year, SCE shall report to the Commission on the total compensation received by each of its ten most highly compensated executives. This information shall also be made publicly available at the same time.

3. Conclusion of Law 42 in D.04-07-022 is modified by striking "\$2.343" and replacing it with "\$1.6." This change does not affect revenue or rates.

4. Conclusion of Law 19 in D.04-07-022 is modified to read:

19. SCE's forecast for T&D O&M expenses should be adopted with a downward adjustment of \$1.443 million per year for FERC Account 583.400 (intrusive inspections).

This change does not affect revenue or rates.

5. The discussion of Account 921 in D.04-07-022 is accurate. Finding of Fact 191 in D.04-07-022 is correct. The adopted total Public Affairs expense forecast of \$7.096 million is reasonable.

6. Application 02-05-004 and Investigation 02-06-002 are closed.

This order is effective today.

Dated April 21, 2005, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
DIAN M. GRUENEICH  
Commissioners